

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUDY LLAMAS,

Defendant.

Case No. 6:22-po-00635-HBK

ORDER GRANTING DEFENDANT'S
MOTION TO CONDUCT PLEA AND
SENTENCING HEARING
TELEPHONICALLY

(Doc. No. 13)

Pending before the Court is the Defendant's motion to appear telephonically at his plea and sentencing hearing. (Doc. No. 13). Defendant attaches a letter from his community health provider explaining his diagnosis of DSM-V Schizophrenia as an exhibit to his motion. (Doc. No. 13-1). Defendant seeks a telephonic appearance for his plea and sentencing due to his mental status and financial circumstances. (Doc. No. 13 at 1). Defendant seeks to appear telephonically because he does not own or utilize computers as "[p]art of his delusional belief system includes that the internet is a government hoax, and he is mentally unable to participate in video services." (*Id.* at 2).

Defendant was charged with violating 36 C.F.R. § 2.35(c), a misdemeanor offense. While Federal Rule of Criminal Procedure 43(b)(2) authorizes, with a defendant's written consent, to appear by video teleconferencing at the sentencing hearing, it does not explicitly authorize to appear telephonically. *See* Fed. R. Crim. P. 43(b)(2). However, telephonic appearances for

1 sentencing hearing have been utilized previously not only during exceptional circumstances to
2 preserve the interests of justice, fairness, and efficiency. *See United States v. Bustillo-Sevilla*,
3 2020 WL 1239669 (N.D. Cal. Mar. 15, 2020). Given Defendant's mental status, the Court finds
4 exceptional circumstances to permit Defendant to appear telephonically at his plea and sentencing
5 hearing.

6 Accordingly, it is **ORDERED**:

- 7 1. Defendant's motion to conduct Defendant's plea and sentencing telephonically (Doc.
8 No. 13) is GRANTED.
- 9 2. Defendant's plea and sentencing is scheduled telephonically for **Tuesday, May 16,**
10 **2023, at 10:00 a.m.**

11
12 Dated: May 10, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE